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Attorneys for Steven P. Kartzman, Chapter 7 Trustee

Order Filed on May 13, 2021
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In re:

ELAINA LIVA,

Debtor.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Case No.: 19-25392 (RG)

Chapter 7

Honorable Rosemary Gambardella

**CONSENT ORDER AUTHORIZING
CARVE-OUT FOR THE BENEFIT OF THE ESTATE**

The relief set forth on the following pages is hereby **ORDERED**.

DATED: May 13, 2021

Rosemary Gambardella

Honorable Rosemary Gambardella
United States Bankruptcy Judge



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Debtor: Elaina Liva
Case No.: 19-25392 (RG)
Caption: Consent Order Authorizing Carve-Out for the Benefit of the Estate

THIS MATTER having been brought before the Court by Steven P. Kartzman, the Court-appointed Chapter 7 Trustee (the "Trustee") for the bankruptcy estate (the "Estate") of Elaina Liva (the "Debtor"), by and through his attorneys Mellinger Kartzman LLC, on application for entry of a Consent Order for a carve-out to the Estate from the sale of the Debtor's real property located at 37 Sherwood Downs, Park Ridge, NJ (the "Property"); and PNC Bank ("PNC") having a mortgage against the Property; and PNC having asserted a lien against the Property; and PNC having agreed to a carve-out from the gross sale proceeds of the sale of the Property (the "Proceeds") for the benefit of the bankruptcy estate on the terms set forth herein, as appears from the signatures of counsel affixed hereto; it is hereby

ORDERED AS FOLLOWS:

1. By way of carve-out for the benefit of the Estate pursuant to 11 U.S.C. § 506(c), the amount due to PNC in satisfaction of its lien from the Proceeds of the sale of the Property shall be reduced to \$23,500.00 from \$31,588.00 (the "Carve-Out").
2. The Carve-Out herein shall be the Trustee's sole recovery of any surcharges under 11 U.S.C. § 506(c), and the Trustee shall not seek any other or additional recovery against PNC under 11 U.S.C. § 506(c).
3. The Trustee shall pay the sum of \$23,500.00 to PNC promptly following the last to occur of entry of this Consent Order and satisfaction of paragraph 7 herein.
4. Nothing herein shall serve as a waiver by PNC of any deficiency claim or unsecured claim against the Estate.
5. The Debtor shall not be allowed an exemption as to the funds carved out for the benefit of the Estate under this Consent Order.



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Debtor: Elaina Liva

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6. The parties hereto shall execute any and all documents and pleadings reasonably necessary to implement all of the foregoing provisions.

7. The terms of this Consent Order are subject to the Court's approval and the issuance of a Notice of Settlement (the "Notice") and the following:

- (a) If no objection to the Notice is filed, the issuance and docketing of a Certification of No Objection by the Clerk of the Bankruptcy Court; or
- (b) If any objection to the Notice is filed, the overruling of any such objection by this Court.

In the event that an objection to the settlement is filed and sustained, the parties shall be restored to their pre-settlement positions.

8. The parties, and anyone who succeeds to their rights and responsibilities hereunder, including their successors and/or assigns, are bound by this Consent Order. This Consent Order is made for the benefit of the parties and all who succeed to their rights and responsibilities.

9. In the event that an objection to the settlement is filed and sustained, the parties shall be restored to their pre-settlement positions.

10. The Bankruptcy Court shall retain exclusive jurisdiction to adjudicate all matters arising under or in connection with this Consent Order.

11. A copy of this Order shall be served on all interested parties within five (5) days from the date of entry.

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Debtor: Elaina Liva

Case No.: 19-25392 (RG)

Caption: Consent Order Authorizing Carve-Out for the Benefit of the Estate

*The undersigned hereby consent to
the form and entry of the within Order:*

MELLINGER KARTZMAN LLC
Attorneys for Trustee

KML LAW GROUP, P.C.
Attorneys for PNC BANK

By: /s/ Steven P. Kartzman
STEVEN P. KARTZMAN, ESQ.

Dated: April 29, 2021

By: 
DENISE CARLON, ESQ.

Dated: April 28, 2021